

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-210724

DATE: March 24, 1983

MATTER OF: Crimsco, Inc.

DIGEST:

1. GAO will dismiss protest alleging that apparent low bidder cannot perform at bid price. Absent a finding of nonresponsibility, a below-cost bid does not constitute a legal basis for challenging a contract award.
2. GAO will dismiss protest alleging that apparent low bidder intends to supply foreign or used components, contrary to terms of solicitation. Agency's acceptance of bid will result in a contractual obligation to supply domestic materials and new components, and whether bidder actually does so is a matter of contract administration.

Crimsco, Inc. protests any award under invitation for bids No. DLA400-83-B-0604, issued by the Defense Logistics Agency, on grounds that the apparent low bidder may not be able to meet specifications for electric hot tables. We dismiss the protest.

Crimsco believes that the apparent low bidder's unit price must be in error; alternatively, Crimsco suggests that the bidder may intend to supply foreign or used components.

To the best of our knowledge, the apparent low bidder has not claimed a mistake. If Crimsco is alleging a buy-in, we note that an unreasonably low or below-cost bid does not provide a legal basis for challenging an award unless there is also a finding of nonresponsibility. The Defense Logistics Agency must determine that the bidder is responsible before making any award; this constitutes an affirmative determination that our Office generally does not review. Dragon Services, Inc., B-208081, July 27, 1982, 82-2 CPD 86.

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Further, if the agency accepts the bid, the bidder in question will have a contractual obligation that includes providing domestic materials and new components. Compliance with this obligation is a matter of contract administration, which is not reviewable under our Bid Protest Procedures. See Rockwood Systems Corporation, B-206872, April 7, 1982, 82-1 CPD 326.

The protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel